

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7912

BILL NUMBER: HB 1764

DATE PREPARED: Feb 28, 2001

BILL AMENDED: Feb 27, 2001

SUBJECT: Medical Care to Prisoners.

FISCAL ANALYST: Kathy Norris

PHONE NUMBER: 234-1360

FUNDS AFFECTED: X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State

Summary of Legislation: *(Amended)* This bill requires an independent medical review committee to review the sufficiency of medical care contracts entered into or renewed by the Department of Correction and related medical directives adopted by the Department of Correction to determine whether the proposed contract and directives are sufficient to ensure that a qualified medical professional providing services under the proposed contract will be able to provide services in conformity with the standard of care that the qualified medical professional is required to meet in the provision of medical care in Indiana. The bill also requires the Attorney General to defend malpractice suits brought against health care providers who treat offenders committed to the Department of Correction when the offender is transported to a hospital emergency room for treatment of a traumatic injury or medical emergency.

Effective Date: July 1, 2001.

Explanation of State Expenditures: *(Revised)* This bill requires the Commissioner of the State Department of Health to appoint an independent medical review team to review the terms of a proposed contract for the provision of medical care for committed individuals in the Department of Corrections. The independent review is to be conducted to determine whether the terms of the proposed contract and the Department of Correction's directives are sufficient to ensure that a licensed provider can provide professional services in conformity with the standard of care required to maintain licensure in the profession in the State of Indiana.. It is estimated that \$75,000 would be necessary for the initial required review. The funds required for review would depend on the term of the contract and renewal dates. It is assumed that the review would be necessary at least once every two years.

The Department of Health estimates that the initial required review of the contract by three professionals, a physician (MD or DO), a psychiatrist (MD with Board certification), and a dentist (DDS) will cost at least \$50,000. An hourly rate of \$200 per hour is assumed with the initial review requiring 75 hours per person (\$45,000). Travel expenses and clerical support for the team are estimated to require another \$5,000. The addition of a nurse and a psychologist to the team may be necessary to fully evaluate the provision of care

covered in the contract. These additional costs would be estimated to be \$150 per hour and require 75 hours per person (22,500). Travel and clerical support is estimated to be \$2,500 for these two additional members of the review team. This estimate is based on an initial review. Should the team make an adverse finding, additional funds would be necessary. As much as \$150,000 might be necessary if there are unresolved issues or problems arising in the contract review process.

The Department of Corrections reports that, as of this year, all State correctional facilities have received accreditation from the National Commission on Correctional Health Care (NCCHC). Accreditation by the NCCHC is a process of voluntary external peer review that recognizes detention and correctional institutions that meet its nationally established and accepted standards for the provision of health services. The NCCHC accreditation program renders an independent professional judgement regarding the health services provided in detention and correctional settings and assists in their continued improvements. NCCHC accreditation is a way to establish requirements for contracted services and to monitor the contractor's performance.

The bill also requires the Attorney General to defend any health care provider made party to a malpractice suit involving an offender who was committed to the Department of Corrections at the time of the claim and was transported to a hospital emergency room for treatment under the authorization of the Department. This defense is required for any health care provider, (Physicians, nurses, ambulance providers, hospitals, dentists, pharmacists, etc.) without a determination by the Attorney General that the suit originated out of an act in which the health care provider was acting within the scope of practice. The cost of this provision would be dependent upon the number of malpractice suits that would be filed under these specific circumstances.

The Attorney General's Office has estimated that depending on the number of cases that might be filed, the Office might need from 2 to 5 additional attorneys experienced in medical malpractice cases. In-house attorneys would be estimated to cost from \$118,410 to \$316,015 for salaries and fringe benefits. Additional funding would be necessary for expert witnesses. The Attorney General may also encounter conflict of interest arising from the multiple kinds of suit that may be filed with medical malpractice cases. If a case is filed with the Health Professions Board, the AG may be required to hire outside counsel to represent the defendant in the malpractice suit. Potential costs resulting from the necessity for outside counsel could be \$50,000 per case.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: State Department of Health, Department of Corrections.

Local Agencies Affected:

Information Sources: Marilyn Cage, Legislative Liaison for the State Department of Health, (317)233-2170. Bob Bugher, Staff Counsel, Department of Corrections, (317)-232-5718. National Commission for Correctional Health Care web site at (<http://www.ncchc.org/accreditation.html>). Janice Kreuscher, Attorney General's Office.